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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/848,101	05/03/2001	Harry E. Gruber	0006.US00	7084
7590	05/19/2004		EXAMINER	
Michael A. Rahman, Esq. Kintera, Inc. 9605 Scranton Road, suite 240 San Diego,, CA 92121			NGUYEN, TAN D	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 05/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application N .</b>	<b>Applicant(s)</b>	
	09/848,101	GRUBER ET AL	
	<b>Examin r</b>	<b>Art Unit</b>	
	Tan Dean D. Nguyen	3629	MW

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 23 February 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-36 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____.                                   |

## **DETAILED ACTION**

### ***Response to Amendment***

The amendment A filed 2/23/04 has been entered.

### ***Claim Rejections - 35 USC § 112***

1. The rejections of claims 1-18, 19-36 under 35 U.S.C. 112, second paragraph, in the 1<sup>st</sup> office action are withdrawn due to applicant's amendments of 2/23/04.
2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase "regarding preferences and dislikes of participant" is vague because it's not clear who are the participants.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 2-4, 6, 16-18, 19, 20-22, 24, 34-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant Admitted Prior Art (or AAPA) in view of RUSSELL et al (US 2002/0178079).

As for Independent claim 1 (method), 19 (apparatus), AAPA discloses a method and means for communication and relationship management, the method establishing relationship between a loved one who is being treated in a facility with a restricted or scheduled visitation

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hours (i.e. in a hospital as a patient), friends or family and one or more organizations engaged in fundraising and soliciting charitable donations, the method comprising:

- (a) provide a communication among the loved one, friends or family by exchanging messages;
- (b) take interest in learning about the loved one's disease, i.e. about cancer treatment and any ongoing research to find cures for cancer; and make donation to support the organization that provide cancer treatment and support research to find cures for the disease in an inherent effort to please the their loved one (patient) and/or expedite the process for donation to the selective organization to find the cure for the patient or loved one's disease while the patient is still alive or do whatever necessary to get the loved one healed;
- (c ) identifying organizations (facilities that provide cancer research and/or treatment to find cure for cancer or would have been obvious to do so to donate the support to the right organization that can cure the patient's disease); and
- (d) making a charitable donation for the organization (making donations to charitable, nonprofit and other organizations that provide such treatment and research and may lead to long-term financial support for the organizations).

(see pages 1 from the subtitle "Background of the Invention" to 1<sup>st</sup> paragraph of page 3 or page 3, line 6).

As for the limitation of asking one or more questions regarding preferences and dislikes of participants in (b), this is inherently included in the teaching of AAPA because for the family and friends to donate to the proper organization that carries research to find cure for the loved one's disease, questions must be raised to the loved one with regard to what kind of disease or

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sickness the loved one currently have and answers must be received. Alternatively, it would have been obvious to do so in order to donate to the proper organization that carries research to find cure for the loved one's disease otherwise donation will be made to the wrong organization and the loved one will not be healed.

As for the further limitation of identifying the organization that engaged in fundraising based on the answers to the questions in (c ), this is inherently included in AAPA in view of the previous paragraph.

As for the further limitation of soliciting a charitable donation for the organization in (d), this is inherently included in AAPA in view of the previous paragraph. Moreover, it's well known that this kind of organization, i.e. cancer society, always engaged in fundraising to find cure for various kinds of cancer. Alternatively, it would have been obvious for the organization to engage in fundraising to find cure for the disease of the loved one, i.e. cancer, so the patient can survive.

Therefore, AAPA discloses the claimed invention except for an efficient communication by carrying out step (a) using a web-based, online healthcare communication system having one or more web pages linked to a computer network for efficient communication among a patient, friends or family by exchanging messages and communicating with one another through the web pages, carrying out step step (b) on the web pages, and carrying out steps (c)-(d) on the web pages.

In another similar method for communication and relationship management, RUSSELL et al is cited to teach a new and improved systems for communication using the Internet, a web-based on-line communication system having web pages, i.e. www.MyEtribute.com or

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www.VIPtribute.com, for (1) communication of family, friends with loved ones and (2) efficient way to access information in a restricted environment with a restricted or scheduled visitation hours (i.e. in a funeral as a deceased patient), (3) coordinating the activities between the family, friend, and loved ones wherein the loved one is being treated in a facility with a restricted or scheduled visitation hours (i.e. in a funeral), and (4) find out the wishes of the loved one and respond appropriately or do the right thing to please the loved one [see 0010, 0011, 0012], i.e. making donation to the organization or disease research center related to loved ones' disease (i.e. Hodgkin's research center or American cancer Society which is related Anna's Hodgkins' disease) (see 0007, 0010, 0011, 0012, 0013, 0015, 0020, 0021, 0107, 0110, 0132, 0155, 0161, 0168, 0169). Alternatively, in view of (4) above, it would have been obvious to ask one or more question regarding loved one's preferences and respond to the answers to the questions to find out the wishes of loved one and respond appropriately or do the right thing to please the loved ones.

Therefore, it would have been obvious to an artisan to modify the method of AAPA by using teach a new and improved systems for communication using the Internet, a web-based on-line communication system having web pages, i.e. www.MyEtribute.com or www.VIPtribute.com, taught by RUSSELL et al to improve communication between related members and access to information related to the event and making donations to selective organization, thus obtaining well known advantages of the Internet such as availability and

As for dependent claims 2-4, 20-22 (which have similar limitations to claims 2-4, respectively), which deals with non-critical and well known organization parameter/characteristic, i.e., the type of the organization, these are discussed in AAPA pages 2-

3, or RUSSELL et al [0015 (related subject), 0169, 0191, 0216, 0242, 0243]. Moreover, the selection of other similar patient treating facility with scheduled visitation hours such as hospital, nursing home, etc. would have been obvious as mere selection of other similar facility to obtain similar results, absent evidence of unexpected results.

As for dependent claim 6, 24 (similar limitation to claim 6), RUSSELL et al discloses the use of the website to provide information and coordinating in the arrangement of events (see 0013, 0107, 0191 (visitation)). Alternatively, the listing of scheduled visitation hours would have been obvious in view of teaching of providing information and coordinating in the arrangement of events above.

As for dependent claims 16, 34 (similar limitation to claim 6), the further limitation of editing the event (visitation) information by updating, this limitation is fairly taught on [0230] of RUSSELL et al wherein it teaches the website provide one destination to efficiently plan, create, store, update and implement miles-stone specific information for coordinating members of the loved ones on specific events.

As for dependent claims 17-18, 35-36 (which have similar limitations to claims 17-18, respectively), the limitation of making a payment or a pledge for making a payment in the future is inherently included in the donation step where donor normally make one lump sum donation or periodic payment as mentioned on [0169 or 0175]. Moreover, the various ways for making donations depending on the donor's situation and are well known parameters and would have been obvious to an artisan to do so.

5. Dependent claims 5-16 and 23-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over AAPA /RUSSELL et al as applied to claims 1-4, 6, 16-18, 19-22, 24, 34-36 above, and further in view of SANDGREN et al.

As for dep. claims 5, 7, 23, 25, the teaching of AAPA/RUSSELL et al are cited above. On page 13, RUSSELL et al discloses a former patient attribute page with a link to guest book to provide outpouring of sentiments from classmates, family and friends, etc., a sense of community support about the patient. SANDGREN et al is cited to teach a method and system for providing a secure online communications between registered participants such as a private website accessible to members only or interactive family communication comprising one or more message boards having information about a particular subject (a particular person) and messages from friends, family and the desired person (see col. 1, lines 5-10, col. 2, lines 47-57, col. 4, lines 15-25, col. 5, lines 12-20, Fig. 3). It would have been obvious to modify the method and system of AAPA/RUSSELL et al by including a message board as taught by SANDGREN et al to provide private and more interactive communications between family or group members which improves the sense of community support for the patient.

As for dep. claims 6, 16, 24, 34, SANDGREN et al discloses the use of calendar, chat room, instant messages and other to improve interactive communications (see Fig. 3). It would have been obvious to apply the above concept to AAPA/RUSSELL et al for showing on line visitation calendars illustrating scheduled visits to the patient to improve interactive communication in supporting the patient wherein visitation is critical to show care and concern.

As for dep. claims 8, 26, these are taught on col. 5, lines 15-20 of SANDGREN et al.

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As for dep. claims 9-15, 27-33, the selections of various members for access to the message board are fairly taught in AAPA page 1, lines 16-30, or RUSSELL et al [0007, 0010], or SANDGREN et al col. 4, lines 30-37, col. 5, lines 1-5, lines 12-23, and would have been obvious based on each specific groups and issues.

6. Claims 1, 2-4, 6, 16-18, 19, 20-22, 24, 34-36 are rejected (2<sup>nd</sup> time) under 35 U.S.C. 103(a) as being obvious over RUSSELL et al (US 2002/0178079).

As for Independent claim 1 (method), 19 (apparatus), RUSSELL et al is cited to teach a new and improved systems for communication using the Internet, a web-based on-line communication system having web pages, i.e. www.MyEtribute.com or www.VIPtribute.com, for (1) communication of family, friends with a loved one who is being treated in a facility with a restricted or scheduled visitation hours (i.e. in a funeral), friends or family and one or more organizations engaged in fundraising and soliciting charitable donations to improve communication between related members and access to information related to the event and making donations to selective organization, thus obtaining well known advantages of the Internet such as availability, the method comprising:

(a) provide a web-based, on-line healthcare communication system having one or more web pages linked to a computer network for efficient communication among a loved one (patient), friends or family by exchanging messages and communication with one another through the web pages;

(b) find out the wishes of the loved one and respond appropriately or do the right thing to please the loved one [see 0010, 0011, 0012], i.e. making donation to the organization or disease research center related to loved ones' disease (i.e. Hodgkin's research center or American cancer

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Society which is related Anna's Hodgkins' disease) (see 0007, 0010, 0011, 0012, 0013, 0015, 0020, 0021, 0107, 0110, 0132, 0155, 0161, 0168, 0169). Alternatively, in view of (b) above, it would have been obvious to ask one or more question regarding loved one's preferences and respond to the answers to the questions to find out the wishes of loved one and respond appropriately or do the right thing to please the loved ones;

(c ) identifying organizations (facilities that provide cancer research and/or treatment to find cure for cancer or would have been obvious to do so to donate the support to the right organization that can cure the patient's disease) in related to the loved one's disease to pay tribute or special memory to the death of loved one; and

(d) making a charitable donation for the organization (making donations to charitable, nonprofit and other organizations that provide such treatment and research and may lead to long-term financial support for the organizations).

(see 0007, 0010, 0011, 0012, 0013, 0015, 0020, 0021, 0107, 0110, 0132, 0155, 0161, 0168, 0169).

As for the further limitation of identifying the organization that engaged in fundraising based on the answers to the questions in (c ), this is inherently included in RUSSELL et al in view of the previous paragraph.

As for the further limitation of soliciting a charitable donation for the organization in (d), this is inherently included in RUSSELL et al in view of the previous paragraph. Moreover, it's well known that this kind of organization, i.e. cancer society, always engaged in fundraising to find cure for various kinds of cancer. Alternatively, it would have been obvious for the

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organization to engage in fundraising to find cure for the disease of the loved one and eliminate related death in the future.

As for dependent claims 2-4, 20-22 (which have similar limitations to claims 2-4, respectively), which deals with non-critical and well known organization parameter/characteristic, i.e., the type of the organization, these are discussed RUSSELL et al [0015 (related subject), 0169, 0191, 0216, 0242, 0243]. Moreover, the selection of other similar patient treating facility with scheduled visitation hours such as hospital, nursing home, etc. would have been obvious as mere selection of other similar facility to obtain similar results, absent evidence of unexpected results.

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or periodic payment as mentioned on [0169 or 0175]. Moreover, the various ways for making donations depending on the donor's situation and are well known parameters and would have been obvious to an artisan to do so.

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As for dep. claims 5, 7, 23, 25, the teaching of RUSSELL et al are cited above. On page 13, RUSSELL et al discloses a former patient attribute page with a link to guest book to provide outpouring of sentiments from classmates, family and friends, etc., a sense of community support about the patient. SANDGREN et al is cited to teach a method and system for providing a secure online communications between registered participants such as a private website accessible to members only or interactive family communication comprising one or more message boards having information about a particular subject (a particular person) and messages from friends, family and the desired person (see col. 1, lines 5-10, col. 2, lines 47-57, col. 4, lines 15-25, col. 5, lines 12-20, Fig. 3). It would have been obvious to modify the method and system of RUSSELL et al by including a message board as taught by SANDGREN et al to provide private and more interactive communications between family or group members which improves the sense of community support for the patient.

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calendars illustrating scheduled visits to the patient to improve interactive communication in supporting the patient wherein visitation is critical to show care and concern.

As for dep. claims 8, 26, these are taught on col. 5, lines 15-20 of SANDGREN et al.

As for dep. claims 9-15, 27-33, the selections of various members for access to the message board are fairly taught in RUSSELL et al [0007, 0010], or SANDGREN et al col. 4, lines 30-37, col. 5, lines 1-5, lines 12-23, and would have been obvious based on each specific groups and issues.

***Response to Arguments***

1. Applicant's arguments filed 2/23/04 have been fully considered but they are not persuasive.

Applicant's comment that RUSSELL et al deals with a different system to provide access to DNA information for individuals and pets (paragraph 0014) is not persuasive in view of the multiple teachings or embodiments, especially [0007, 0107]. Just to select one aspect of the multiple embodiments and say that this is what RUSSELL et al teaches is improper argument.

***Conclusion***

2. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Telephone inquiries regarding the status of applications or other general questions, by persons entitled to the information, should be directed to the group clerical personnel and not to the examiner. As the official records and applications are located in the clerical section of the examining Tech Center, the clerical personnel can readily provide status information without contacting the examiner. See MPEP 203.08. The Tech Center clerical receptionist number is (703) 308-1113.

In receiving an Office Action, it becomes apparent that certain documents are missing, e.g. copies of references, Forms PTO 1449, PTO-892, etc., requests for copies should be directed to Tech Center 3600 Customer Service at (703) 306-5771, or e-mail CustomerService3600@uspto.gov.

Any inquiry concerning the merits of the examination of the application should be directed to Dean Tan Nguyen at telephone number (703) 308-2053. My work schedule is normally Monday through Friday from 7:00 am through 4:30 pm.

Should I be unavailable during my normal working hours, my supervisor John Weiss may be reached at (703) 308-2702. The FAX phone numbers for formal communications concerning this application are (703) 305-7687. Informal communications may be made, following a telephone call to the examiner, by an informal FAX number to be given.

Other possibly helpful telephone numbers are:

Allowed Files & Publication	(703) 305-8322
Assignment Branch	(703) 308-9287
Certificates of Correction	(703) 305-8309
Drawing Corrections/Draftsman	(703) 305-8404/ 8335
Fee Questions	(703) 305-5125
Intellectual Property Questions	(703) 305-8217
Petitions/Special Programs	(703) 305-9282
Terminal Disclaimers	(703) 305-8408
Information Help Line	1-800-786-9199

dtn



DEANT. NGUYEN  
PRIMARY EXAMINER